

## **BOARD OF APPEALS MINUTES**

**JULY 9, 2002**

**On Tuesday July 9, 2002, at 7:00 p.m. the Town of Clarence Board of Appeals heard the following requests for variances:**

**APPEAL NO I  
SBA Network Services  
Industrial**

**Requests the Board of Appeals approve and grant two variances:**

- 1. A twenty foot (20') height variance creating a one hundred seventy foot (170') height for an existing telecommunications tower located at 9775 County Road.**
- 2. A four point one foot (4.1') variance creating a one hundred sixty five point nine foot (165.9') setback for the fall zone at 9775 County Road.**

**APPEAL NO I is in variance to L.L.173-4D, dimensional restrictions and L.L. 173-5B (4) location restrictions.**

**APPEAL NO II  
F & V Morabito  
Multiple Family**

**Requests the Board of Appeals approve and grant a twenty five foot (25') variance creating a twenty foot (20') front yard setback for construction of a new single family home located at 4370 Westwood Drive.**

**APPEAL NO II is in variance to Article V-A, section 30-28.4, size of yards.**

**APPEAL NO III  
Helena Kleinlein  
Agricultural**

**Requests the Board of Appeals approve and grant a sixty five foot (65') variance creating a one hundred sixty five foot (165') front yard setback for construction of a new single family home at 10087 Greiner Road.**

**APPEAL NO III is in variance to Article V, section 30-27 B, size of yards.**

**APPEAL NO IV  
Richard McNamara  
Residential A**

**Requests the Board of Appeals approve and grant a two thousand seven hundred thirty six (2736) square foot variance creating a three thousand four hundred fifty six (3456) square foot pole barn at 5430 Thompson Road.**

**APPEAL NO IV is in variance to Article II, 30-13 B, accessory buildings.**

**APPEAL NO V  
Paul Stephen - Rock Oak Estates**

**Requests the Board of Appeals approve and grant a twelve (12) square foot variance creating a forty four**

**Commercial** (44) square foot monument sign at 10065 Main Street.

**APPEAL NO V is in variance to L.L. 181-4B -1, sign district specifications.**

**APPEAL NO VI** Requests the Board of Appeals approve and grant an  
**Paul Stephen - Rock Oak Estates** eight foot (8') variance creating a two foot (2') rear yard  
**Commercial** setback to allow construction of an 8' x 24' deck in Rock  
Oak Estates at 9875 Tobermory Avenue. (New area)

**APPEAL NO VI is in variance to L.L. Chapter 135 - E(3) (A) (4) setbacks and spacing.**

**APPEAL NO VII** Requests the Board of Appeals approve and grant a ten  
**Patrick Sheedy** foot (10') variance creating a twenty five foot (25') front  
**Residential A** yard setback for a portion of single story garage to be  
constructed with new single family home at 6239 Willow  
Run Court. (Meadowlakes Subdivision)

**APPEAL NO VII is in variance to Article II, section 30-12 A, size of yards.**

**ATTENDING** John Brady  
John Gatati  
Arthur Henning  
Ron Newton  
Raymond Skaine

**INTERESTED**  
**PERSONS:** Gary Ferrara  
Jim Morabito  
Aelena Kleinlein  
Richard McNamara  
Noel Dill  
Patrick Sheedy

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**OLD BUSINESS** The Board revisited the site at 6399 Transit Road  
**Yongmi Oddo** which was staked for the board to re-inspect.  
**Major Arterial** They will submit a separate application for the sign. The  
house to the south will be torn down to make way for a  
roadway for the Holiday Retirement facility. Ron Newton  
said he still isn't happy with the building being brought  
toward the front. The road has been widened, and he is not  
in favor of anything forward of what is already there. Mr.  
Oddo said it is very hard for people to see their property  
until they are right there. There are two large trees that  
completely block their property. They need some kind of  
exposure there, so customers know where they are going.

ACTION: Motion by Raymond Skaine, seconded by John Gatti to approve Appeal No III from the June 11, 2002 meeting as written.

Arthur Henning	AYE
Ronald Newton	NAY for reasons mentioned
Raymond Skaine	AYE
John Gatti	AYE
John Brady	AYE

MOTION CARRIED.

APPEAL NO I  
SBA Network Services  
Industrial

Requests the Board of Appeals approve and grant two variances:

1. A twenty foot (20') height variance creating a one hundred seventy foot (170') height for an existing telecommunications tower located at 9775 County Road.
2. A four point one foot (4.1') variance creating a one hundred sixty five point nine foot (165.9') setback for the fall zone at 9775 County Road.

DISCUSSION:

Gary Ferrara represented Voice Stream Wireless. They need the additional height for their coverage objectives. The existing tower was built before the Town had an ordinance. The Planning Board requested that the tower would be inspected and brought into compliance. Raymond Skaine said he would rather see a twenty foot extension, as opposed to an additional tower. Ron Newton was not in favor of changing the laws to

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accommodate Voice Stream. Arthur Henning asked what the hardship would be for Voice Stream if they did not get the variance. Mr. Ferrara said they would have to find a new location and build a new tower. Spectra Site actually owns the tower.

ACTION:

Motion by John Gatti, seconded by Raymond Skaine to approve Appeal No I as written.

John Gatti	AYE
Raymond Skaine	AYE
Arthur Henning	AYE
Ron Newton	NAY
John Brady	AYE

MOTION CARRIED.

APPEAL NO II  
F & V Morabito  
Multiple Family

Requests the Board of Appeals approve and grant a twenty five foot (25') variance creating a twenty foot (20') front yard setback for construction of a new single family home located at 4370 Westwood Drive.

DISCUSSION:

Jim Morabito said he has a sewer, telephone, and electric right of way that prevents him from setting back the full forty five feet. The telephone right of way dates back to 1951. The parcel is 100' x 200'. The existing home next door not set back at 45 feet either, so it won't be a huge difference in the look of the setback. No one had a real problem with the request.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No II as written.

ALL VOTING AYE. MOTION CARRIED.

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APPEAL NO III  
Helena Kleinlein  
Agricultural

Requests the Board of Appeals approve and grant a sixty five foot (65') variance creating a one hundred sixty five foot (165') front yard setback for construction of a new single family home at 10087 Greiner Road.

DISCUSSION:

The applicant said all the homes have a variance. They have spoken to the neighbors, and the neighbor next door would prefer they setback at 165 feet so they can maintain their privacy. John Gatti said he was very surprised that the neighbor on one side was agreeable, because several years ago there was a law suit over the property next to them on the other side. John Gatti said he had a problem with this because they would be right in the next door neighbors back yard. Raymond Skaine said he agreed with Mr. Gatti. He suggested a compromise.  
Mr. Newton suggested a compromise or putting the garage on the other side. They put the garage on that side so they wouldn't have to remove 10 beautiful trees. The board in general preferred a maximum of 150 feet.

ACTION:

Motion by Raymond Skaine, seconded by Ron Newton to DENY Appeal NO III as written because it will create an undesirable change in the character of the neighborhood, and interfere with the privacy of the property on the west side

John Gatti

AYE

Ron Newton            AYE  
Arthur Henning       AYE  
Raymond Skaine       AYE  
John Brady             AYE

MOTION CARRIED.

Motion by Raymond Skaine, seconded by Ronald Newton to approve Appeal No III in accordance with the agreement by the applicant that the variance be granted for 150 feet which would be a fifty foot variance for the property located at 10087 Greiner Road.

ALL VOTING AYE. MOTION CARRIED.

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APPEAL NO IV  
Richard McNamara  
Residential A

Requests the Board of Appeals approve and grant a two thousand seven hundred thirty six (2736) square foot variance creating a three thousand four hundred fifty six (3456) square foot pole barn at 5430 Thompson Road.

DISCUSSION:

Mr. McNamara said he needs more room for all of his household items and his business equipment. Mr. Newton asked if it was true, that he was intending to fix vehicles back there. He said he is in the construction business, and he does not fix vehicles other than his own. Mr. Skaine said he talked to two of his neighbors, and they are in favor of the addition because they want to see his equipment in the enclosure, not in the yard.

ACTION:

Motion by Ronald Newton, seconded by Raymond Skaine to approve Appeal No IV as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO V  
Paul Stephens - Rock Oak Estates  
Commercial

Requests the Board of Appeals approve and grant a twelve (12) square foot variance creating a forty four (44) square foot monument sign at 10065 Main Street.

DISCUSSION:

Noel Dill said that Champion who manufacturers their manufactured homes will provide the park with a new sign. It will provide an improvement to the entrance of the existing park, and with a changeable copy area on the sign provide a space for community announcements. The sign will not be higher than the existing sign. It will be lit internally.

ACTION: Motion by John Gatti, seconded by Arthur Henning to approve Appeal No V as written.

ALL VOTING AYE. MOTION CARRIED.

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APPEAL NO VI  
Paul Stephen - Rock Oak Estates  
Commercial

Requests the Board of Appeals approve and grant an eight foot (8') variance creating a two foot (2') rear yard setback to allow construction of an 8' x 24' deck in Rock Oak Estates at 9875 Tobermory Avenue.

DISCUSSION:

Noel Dill represented Rock Oak Estates and the residents wishing to have an 8 x 24 deck on their property. They have a home that is located with a green space behind it. They will be able to utilize the sliding glass doors off the back of their home. It will not disrupt the character of the property. This home is on a corner. Because of utility easements they had to move the home back a little further (four to six feet) when they placed it on the property. Ray Skaine asked if the rest of the homes on Tobermory are going to have the same problems? Would the people say, next door be able to have an 8 x 24 deck? Mr. Dill said "No, they wouldn't, because they don't have the proper setback." We believe from Rock Oaks point of view, that there is some merit to this request, because it is a unique situation. It is the only house before the curve, it has green space behind it, it is a smaller home, and the home had to be located a little off center because NYSEG put in a power transformer. Ray Skaine said "Are we going to see a steady stream of people coming in asking for the same type of variance again, as we did in the back. Your salespeople are not doing a good enough job explaining things. Mr. Dill said they no longer use Hunt real estate, they do it themselves.

ACTION: Motion by Raymond Skaine, seconded by John Gatti to approve Appeal No VI as written.

ALL VOTING AYE. MOTION CARRIED.

APPEAL NO VII  
Patrick Sheedy  
Residential A

Requests the Board of Appeals approve and grant a ten foot (10') variance creating a twenty five foot (25') front yard setback for a portion of single story garage to be constructed with new single family home at 6239 Willow Run Court. (Meadowlakes)

DISCUSSION:

Mr. Sheedy said due to the nature of the lot being on a cul-de-sac and having a relatively narrow front yard dimension, he is trying to keep his house as far forward as he can. They want a three car single story garage. There is a small triangular area of garage that would require a variance. No one on the board had a problem with the request.

ACTION:

Motion by Raymond Skaine, seconded by Arthur Henning to approve Appeal No VII as written.

ALL VOTING AYE. MOTION CARRIED.

MINUTES

Motion by Raymond Skaine, seconded by John Gatti to approve the minutes of the meeting held on June 11, 2002 as written.

ALL VOTING AYE. MOTION CARRIED.

Meeting adjourned at 8:15 p.m.  
John P. Brady, Chairman